

Book Reviews

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Burning the Ships: Intellectual Property and the Transformation of Microsoft

Marshall Phelps and David Kline. Hoboken, NJ: John Wiley & Sons, 2009. 186 + xxii pages. US\$29.95.

This is a book as much about teams and organizations managing conflict brought on by significant change as it is about intellectual property (IP). Intertwined throughout a series of engaging and personal stories—showing how Microsoft instituted a strategic personality makeover from a monopolistic bully to a respected collaborative partner—are lessons that every business person can use in building and implementing diverse teams to meet clear strategic objectives. Collaboration “enables a company to more broadly and rapidly disseminate its technologies and products into the market through the cooperative efforts of others. It provides the framework for pursuing joint product development work with other companies that can lead to greater success in the marketplace” (p. 46).

After a relatively detailed history of Microsoft’s expansive influence in the software industry, of the company’s well-publicized antitrust suit taken by the U.S. government, and of a series of patent infringement cases, author Marshall Phelps characterizes his June 2003 arrival in Redmond to “liberate previously untapped company value” and to unlock IP opportunities establishing a new era of open innovation. Phelps had retired from IBM after creating a \$2 billion per year revenue stream at IBM through IP royalties, but

he returned to the active workforce and rose to the challenge to help transform the fortified software Goliath into a collaborative partner in the dawning age of open innovation. With an overarching goal to provide shareholder value, Microsoft had recognized the need to collaborate with other companies to produce better products and services more effectively and to meet the interoperability needs of customers.

In Chapter 2, we learn that Microsoft’s general counsel, Brad Smith, likened the abandonment of protective IP policies in lieu of mass collaboration to “Cortez burning his ships at the shore of the New World” (p. 33)—thus, the title of the book. Phelps and David Kline indicate early on “the world would be a lot better off if more companies would treat their intellectual property primarily as a business and financial asset and not a litigation club for beating damage awards out of rivals” (p. 27). The authors repeatedly credit Microsoft’s IP transformation to the difficult role of changing the organizational culture, implementing diverse teams of people intimately involved in adopting, patenting, and licensing via a long-term business strategy.

For example, these diverse teams gather several times per year for innovation sessions where the best technologists and inventors, across a wide variety of backgrounds, focus on the question, “What are we *not yet* working on that could become important in 5 or 10 years?” Building the licensing operation at Microsoft dove deep into the corporation, and key team members were encouraged to look outside the company, to become involved in professional organizations, and to actively engage in intellectual debate. Again, the authors point out that strategic direction changes require cultural shifts throughout the organization. Focusing less on risk mitigation and more on business development required broad cultural buy-in from technology, research and development (R&D), corporate vice presidents (VPs), middle management, as well as the legal department.

Shortly after his arrival at Microsoft, Phelps issued the company’s new “Open for Business” strategy to the

world at large. Chapters 3 and 4 share anecdotes of Microsoft's challenges in shifting from a "fortress mentality" to opening new market opportunities through IP acquisition and investment to gain needed technology, build partnerships, and achieve strategic objectives. Initially, the "Open for Business" campaign was met with outright hostility from other companies ranging from Silicon Valley venture capitalists to Japanese hardware stalwarts, who, until recently, felt squashed by the software giant's restrictive IP language. But, again, Phelps and Kline emphasize that the goals were met primarily by constructing strong and respectful business relationships: "corporations don't change policies or make deals; people do" (p. 112).

Bringing this point home, Chapter 5 is titled "Leadership Starts at the Top." Praising chair Bill Gates for far-sighted and detailed monitoring of Microsoft's IP strategies, the authors note that the majority of chief executive officers recognize the need for careful IP strategies but simply do not know how to manage these intangible assets. Today, two-thirds of major, new innovations use interorganizational collaboration, but 80% of such innovations came from internal R&D labs in the 1970s. Well-deployed intangible assets, such as valuing and licensing or cross-licensing the patent portfolio of a firm, leads to a factor of three return over companies that fail to implement a clear IP strategy.

IP strategy, therefore, filters down from the executive offices to all areas, with senior executives embedded in the business units and product teams. In particular, the authors stress that an effective IP team shall be cross-functional: composed of attorneys, business development leaders, financial analysts, marketers, technologists, and those with expertise in merger and acquisitions, licensing, and communications. These individuals must capitalize on their skill sets as advocates, educators, and listeners to successfully develop an effective IP strategy.

Finally, in Chapter 6, "The Road Ahead," the authors offer both an historical perspective of the U.S. patent system and a challenge for the future. With the premise that actively practicing IP rights will spur innovation, the authors note that the same forces that caused invention to move to in-house R&D labs in the 1930s (i.e., economic and technical growth, cost, complexity, and fragmentation) are the same forces in place today growing shareholder value through open innovation and mass collaboration. The authors offer future challenges, which, as expected, are somewhat more specific to the software industry than the IP community at large:

1. Accounting/valuation of intangible assets, such as patents, to find equal footing on the firm's balance sheet as property, plant, and equipment.
2. What is the role of IP in cloud computing and mash-ups? These open innovation and mass collaboration sources of new ideas and interoperability will be successful only if there is a route to profit, and the route to profit is historically demonstrated through some degree of granted IP rights.
3. Resolution of the battle between open software and proprietary software, perhaps through mixed source software, to offer the customer decreased software development cost as well as wide use of software without threat of litigation.

Open innovation can harness the world's brainpower, largely through the independent Internet marketplace, and Microsoft as well as a host of other companies find themselves on the threshold of a new era

Burning the Ships is filled with insider stories from Microsoft, making it a fun book to read (though it seems a bit self-promotional at times). However, readers not familiar with licensing strategies and intellectual property arguments may find themselves wading through a sea of acronyms and legal terms. Anyone who invests the short time to indulge the personal stories of this book will come away with a renewed sense of commitment to implementing fully cross-functional teams, as Phelps clearly shows as a key element to the successful transformation of a software powerhouse "going it alone" to spurring innovation and economic progress benefiting all of society.

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